

**STRUCTURAL PEST CONTROL BOARD**

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www.pestboard.ca.gov**REGULATION UPDATE****CONNECTING STRUCTURES
AND
ADVERTISING**

To: ALL REGISTERED COMPANIES AND BRANCH OFFICES

The Structural Pest Control Board has amended sections 1970 and 1970.6 and adopted Article 6, Section 1999.5 of Title 16, Division 19 of the California Code of Regulations. These regulations address false and misleading advertising, as well as the inspection, reporting and fumigation of connecting structures.

These regulations become effective November 23, 2001.

If you have any questions regarding these regulations, you can contact Dennis Patzer at (916) 561-8700.

October 2002

§1970. Standards and Record Requirements.

For the purpose of maintaining proper standards of safety and the establishment of responsibility in handling the dangerous gases used in fumigation and the pesticides used in other pest control operations, a registered company shall compile and retain for a period of at least three years a log for each fumigation job and for each pesticide control operation in which a pesticide is used by the registered company or the registered company's employee.

(a) The log (See Form 43M-47 (New 5/96) at the end of this section) for each fumigation job shall contain the following information:

Name, address and company registration certificate number of prime contractor.
Name, address and company registration certificate number of subcontractor, if any.

Address of property.

Date of fumigation.

Name and address of owner or his or her agent.

Date and hour fire department was notified pursuant to Business and Professions Code section 8505.5

Date and hour county agricultural commissioner was notified and method of notification, where required.

Property description including type of structure as to details of roofing, ~~and~~ walls, and the presence of construction elements, conduits, drains, or vacuum systems that could allow the passage of fumigant from the structure to be fumigated to any adjacent or adjoining structure(s), thereby connecting them, and method(s) used to prevent passage of the fumigant.

Cubic feet fumigated.

Target pest(s)

Kind of fumigant(s)

United States Environmental Protection Agency registration number(s) of fumigant(s).

Name of warning agent and amount used.

Type of sealing method used.

Weather conditions as to temperature and wind.

Date and hour fumigant introduced.

Cylinder number of each fumigant used.

Weight of each fumigant cylinder before introduction of gas.

Total pounds of fumigant used from each cylinder.

List of any extraordinary safety precautions taken.

Name, signature and license number of operator or field representative releasing fumigant.

First name and surname of crew when fumigant was released, and aeration commenced and when the property was released for occupancy.

Indication of whether or not safety equipment was available at the fumigation site at the time the fumigant was introduced, when ventilation commenced and when the property was released for occupancy.

Date and hour aeration commenced.

Conditions of tarp and seal.

Name, signature and license number of operator or field representative commencing ventilation.

Type of device(s) used to test for re-entry.

Date and hour ready for occupancy.

Name, signature and license number of operator or field representative releasing property for occupancy.

Method used to calculate amount of fumigant used.

Factors used in calculation of fumigant.

Special notes or comments pertinent to fumigation.

(b) The report for each pest control operation, other than fumigation, in which a pesticide is used shall contain the following information:

Date of treatment.

Name of owner or his or her agent.

Address of property.

Description of area treated.

Target pest(s).

Pesticide and amount used.

Identity of person or persons who applied the pesticide.

(c) The term "fraudulent act" as used in Section 8642 includes but is not limited to the falsification of any records pertaining to fumigation jobs or other pest control operations in which a pesticide other than a fumigant is used.

NOTE: Authority cited: Section 8525, Business and Professions Code.

Reference: Section , 8642, 8646 and 8652, Business and Professions Code.

§1970.6 Fumigation of Connecting Structures

(a) During Prior to the process of fumigation, all single units and rooms within the entire structure shall be vacated.

~~Connecting structures to those structures to be fumigated need not be vacated if they are separated by sealing methods which prevent the fumigant from entering the adjacent or adjoining structures.~~

(b) When recommending a fumigation, the prime contractor for fumigation shall:

- (1) inquire of the owner or designated agent about the presence of any construction elements, conduits, drains, or vacuum systems that could allow passage of the fumigant from the structure to be fumigated to any adjacent or adjoining structure(s), thereby connecting them;
- (2) inspect the structure to be fumigated and all other adjacent or adjoining structures on the property to determine if there are construction elements, conduits, drains, or vacuum systems present that could allow passage of the fumigant from the structure to be fumigated to any adjacent or adjoining structure(s). When such conditions exist the prime contractor for fumigation shall notify in writing the licensee in charge of the fumigation of the

conditions which could allow passage of the fumigant to adjacent or adjoining structures.

(c) Prior to introduction of the fumigant, the licensee in charge of the fumigation shall:

(1) conduct a thorough search for construction elements, conduits, drains, or vacuum systems that could allow passage of the fumigant from the structure to be fumigated to any adjacent or adjoining structure on the property:

(2) document his or her inspection findings on the fumigation log, identifying the type and location of the construction element(s), conduit(s), drains(s), or vacuum systems(s) between connected structures and the methods used to prevent passage of the fumigant,

(d) Any adjacent or adjoining structure which is deemed connected to the structure to be fumigated must be vacated during the process of fumigation, unless it is separated from the structure to be fumigated by methods which prevent passage of the fumigant from entering the connected structure(s). When it is necessary to vacate any connected, adjacent or adjoining structure, that structure shall be considered as a fumigated structure, and all applicable rules, regulations and label instruction apply.

NOTE: Authority cited: Section 8525, Business and Professions Code.
Reference: Section 8505.7, Business and Professions Code.

Article 6. Enforcement

§ 1999.5. False and Misleading Advertising

(a) It is unlawful for any licensee, or any employee thereof, directly or indirectly to make, disseminate, represent, claim, state, or advertise, or cause to be made, disseminated, represented, claimed, stated or advertised by any manner or means whatever, any statement or representation concerning structural pest control, as defined in Business and Professions Code section 8505, which is unfair, deceptive, untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be unfair, deceptive, untrue or misleading.

(b) As used in this section, the terms "make," "disseminate," "represent," "claim," "state," or "advertise" and any of their variants include, but are not limited to any print communications (for example, telephone directories, newspapers, magazines or other publications or books, notices, circulars, pamphlets, letters, handbills, posters, bills, signs, placards, cards, labels, tags, vehicle or equipment signage, window displays, or store signs), electronic communication (for example, radio, television, audio or video tape, telephone, or the Internet), demonstration, direct person-to-person contact, or other means or methods now

or hereafter employed to bring structural pest control services, methods, products, pesticides, or devices to the attention of the public.

(c) As used in this section "the exercise of reasonable care" includes a duty to investigate the basis of any statement or representation to assure that the statement or representation is not unfair, deceptive, untrue or misleading. The making of a statement or representation to assure that the statement or representation is not unfair, deceptive, untrue or misleading. The making of a statement or representation without knowledge of its truthfulness breaches the duty to investigate.

(d) Violation of this section occurs at the time an unfair, deceptive, untrue or misleading statement or representation is made. Once a violation occurs, subsequent disclosures, caveats, disclaimers, or waivers cannot eliminate it.

(e) The remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws and regulations of this State.

(f) Examples of direct or indirect statements or representations which are unfair, deceptive, untrue or misleading include, but are not limited to, the following:

(1) any advertising in violation of Business and Professions Code sections 17200, and 17500;

(2) any statement or representation that misrepresents or fails to disclose an important or necessary fact about a pest control service, method, product, pesticide or device;

(3) any unfair, deceptive, untrue or misleading statement or representation about the effects of a pest control service, method, product, pesticide or device;

(4) any expressed or implied statement or representation that one or a combination of pest control services, methods, products, pesticides, or devices is an alternative or substitute for, is comparable to, or is better than any other pest control service, method, product, pesticide, device, or combination thereof, if what is being compared provides different treatment coverage of a structure, including but not limited to differences in the extent that accessible and inaccessible areas can reasonably be treated, unless said differences in treatment coverage are clearly and conspicuously stated;

(5) any representation that a service, method, product, pesticide, or device, or combination thereof, that is not designed to treat all potentially infested wood in a structure, both accessible and inaccessible, will be used to treat an entire structure for target pests;

(6) any statement or representation that a pest control service, product, pesticide, or device offers a general environmental protection or benefit, or that the pest control products, pesticides, or devices the licensee uses, the applications of such products, pesticides, or devices, or any of them, are "among the least toxic chemicals known," "relatively non-toxic," "pollution approved," "environmentally aware," "environmentally sensitive," "environmentally preferable," "environmentally benign," or "contains all natural ingredients";

(7) any unfair, deceptive, untrue or misleading statement concerning the composition of a pest control service, method, product, pesticide or device;

- (8) any unfair, deceptive, untrue or misleading statement concerning the effectiveness of a pest control service, method, product, pesticide or device;
- (9) any unfair, deceptive, untrue or misleading statement about the value of a pest control product for purposes other than as a pesticide or pest control device;
- (10) any unfair, deceptive, untrue or misleading comparison of pest control services, methods, products, pesticides or devices;
- (11) any statement or representation that a pesticide or device is certified, sponsored, recommended, endorsed, or approved by any agency of the Federal Government or the State of California, including but not limited to, "tested by the Department of the Interior," "EPA approved," "EPA registered," "approved by the Structural Pest Control Board," or "recommended by the Structural Pest Control Board";
- (12) a statement which is literally true but is used in such a way as to give an unfair, deceptive, untrue or misleading impression to the consumer;
- (13) claims as to the safety of a pesticide application, a pesticide or pesticide ingredients, including statements such as "safe," "nonpoisonous," "non-injurious," "harmless" or "nontoxic to humans and pest" with or without such a qualifying phrase as "when used as directed";
- (14) claims that the pesticides and other substances the licensee applies, the application of such pesticides, or any other use of them are comparatively safe or free from risk or harm;
- (15) claims regarding services and products for which the licensee does not have substantiation in the form of tests, analysis, research, studies, or other evidence that was conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession or science to yield accurate and reliable results; and
- (16) any statement or representation concerning structural pest control that is conditioned or subject to any requirement, condition, limitation, disclaimer or waiver, that is not immediately followed by a clear and conspicuous statement of said requirement, condition, limitation, disclaimer or waiver.

NOTE: Authority cited: Section 8525, Business and Professions Code.
Reference: Sections 8648, 17200 et seq., 17500 et seq., Business and Professions Code.